

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 13, 2009

DIVISION ONE

B210478 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 T.V., Sr.,

The juvenile court's jurisdictional order as to T.V., and its dispositional order as to D.V. (requiring Father to participate in a drug rehabilitation program with random testing), are conditionally reversed. The matter is remanded to the juvenile court with directions to proceed in compliance with the notice provisions of the ICWA and section 224.2. If, after proper notice, the court finds that D.V. and/or T.V. is an Indian child, the juvenile court shall proceed in accordance with the ICWA and section 224 et seq. If, however, the juvenile court finds that neither T.V. nor D.V. is an Indian child, the court shall reinstate the jurisdictional order as to T.V., and the dispositional order as to D.V.

Weisberg, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

B204725 In re Elizabeth Ozerson (Not for Publication)
 on
 Habeas Corpus

The petition for a writ of habeas corpus is denied.

Weisberg, J. (Assigned)

I concur: Mallano, P.J.
I dissent: Rothschild, J. (Opinion)

DIVISION ONE (continued)

[illegible]

The matter is remanded to the juvenile court with directions to calculate the amount of precommitment custody credits on the record, set forth the maximum confinement terms based upon the current and prior sustained petitions on the record, and correct the minute order to reflect these calculations. The wardship order is affirmed in all other respects.

Weisberg, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

B210077 Los Angeles County, D.C.F.S. (Certified for Publication)
v.
J.M.

The orders of the juvenile court as to Mother are reversed. The court is ordered to dismiss the petition as to Mother and return the children to the custody of their mother forthwith unless new circumstances would justify a new finding of jurisdiction. This opinion is final on filing.

Rothschild, J.

We concur: Mallano, P.J.
 Weisberg, J. (Assigned)

July 13, 2009 (Continued)

DIVISION THREE

B211650 Theron Brown (Not for Publication)
 v.
 James Hunley

The judgment is affirmed. Hunley shall bear his own cost on appeal.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

DIVISION FOUR

B208851 Legacy Construction and Development, Inc. (Not for Publication)
 v.
 De Francesca, et al.

The amended judgment is reversed only as to the ruling sustaining the demurrer to the causes of action for intentional and negligent misrepresentation. In all other respects, the amended judgment is affirmed. Each side is to bear its costs on appeal, if any.

Epstein, P.J.

We concur: Willhite, J.
 Suzukawa, J.

Each of the following:

B204970 Kapuya v. Beverly Medical Associates
B209783 Miller et al. v. AC Horticulural Management
B206913 Meier et al. v. Lefler

Filed order denying petition for rehearing.

DIVISION FOUR (continued)

B215396 Kaiser Foundation Health Plan, Inc. et al.
 v.
 Superior Court, Los Angeles County
 (Ramsey et al., r.p.i.)

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION FIVE

Court convened at 9:00 a.m.

Present: Turner, P.J., Armstrong, J., Kriegler, J. and D. Nolan, Deputy Clerk.

Each of the following:

B212355 People v. Crawford
B215740 People v. Bell
B209398 People v. Rivera
B212722 People v. Nelson
B216187 DCFS v. SCLA

Argument waived, cause submitted.

B208164 Tony Neman
 v.
 Commercial Capital Bank

Merits:

Argued by Joshua A. del Castillo for respondent and by Lyle R. Mink for appellant. Cause submitted.

DIVISION FIVE (continued)

B207983 Marina-Pacific Associates
v.
Stuart Hoffman

Merits:

Argued by Caroline Chan for respondent and by Stuart Hoffman appellant in propria persona. Cause submitted.

B210798 Awad Dayan et al.,
v.
Rimon Abu Ata et al.,

Merits:

Argued by Sol P. Ajalat for appellants and by James C. Fedalen for respondents. Counsel are directed to file letter briefs within 10 days of oral argument. Cause will be submitted on July 23, 2009 at 4:30 p.m.

B207606 Janice Sharp, et al.,
v.
Alta San Rafael Association, Inc. et al.,

Merits:

Argued by Kevin J. Stack for appellants and by Eric M. Volkert for respondents. Cause submitted.

B208833 J.A., A Minor, etc.,
v.
Los Angeles Unified School District

Merits:

Argued by Luis A. Carrillo for appellant and by Howard A. Friedman for respondents. Cause submitted.

DIVISION FIVE (continued)

B209107 People
 v.
 Alejandro Palomino, et al.,

Merits:

Argued by Andrew R. Flier for appellant Joshua Palomino, by Edward J. Haggerty for appellant Alejandro Palomino and by Noah Hill, Deputy Attorney General for respondent. Cause submitted.

Court recessed.

Court reconvened at 11:00 a.m.

Present: Armstrong, Acting P.J., Mosk, J., Kriegler, J. and D. Nolan, Deputy Clerk.

Each of the following:

B214144 DCFS v. R.A.
B210959 People v. Busby
B208151 People v. Tolfree
B206566 People v. Salgado
B207097 People v. Uriquiza
B209087 People v. Green
B210239 People v. Carter
B210951 People v. Govan

Argument waived, cause submitted.

B208925 Giannina Toaxen
 v.
 Dennis P. Thompson

Merits:

Argued by Morris S. Getzels for appellant and by David Ozeran for respondent. Cause submitted.

Court recessed.

July 13, 2009 (Continued)

DIVISION FIVE (continued)

Court reconvened at 1:00 p.m.

Present: Armstrong, Acting P.J., Mosk, J., Kriegler, J. and D. Nolan, Deputy Clerk.

B210943 Henstorf
 v.
 Wellpoint Health Networks, Inc. et al.,

Merits:
Argued by Max Blecher for appellant and by Frank Falzetta for respondent
State Compensation Insurance Fund. Cause submitted.

B212160 Mary Jones
 v.
 Sedgwick Claims Management Services, Inc.,

Merits:
Argued by Mary Jones appellant in propria persona and by Michael D.
McLean for respondent. Cause submitted.

Court adjourned.

DIVISION FIVE (continued)

B210239 People (Not for Publication)
v.
Lonnie Carter

Defendant's sentence is modified (1) with respect to count 2, to reflect that defendant's midterm sentence of two years on the burglary charge was enhanced with three consecutive one-year terms pursuant to section 667.5, subdivision (b) (rather than section 1203, subdivision (e) (4)) for defendant's prior convictions in case numbers A452157, TA079283 and TA081378; and (2) to stay execution of defendant's sentence on count 3 pursuant to section 654. We remand the matter to the trial court to determine whether to impose or to strike defendant's five remaining section 667.5, subdivision (b) priors. If the trial court strikes the priors, it shall state its reasons for doing so in its minute order, as required by section 1385, subdivision (a). The judgment is otherwise affirmed.

Mosk, J.

We concur: Armstrong, Acting P.J.
 Kriegler, J.

DIVISION SIX

[illegible]

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Yegan, Acting P.J.
Coffee, J.

DIVISION SIX (continued)

B210910 Carradine (Not for Publication)
v.
Cowell

The judgment is affirmed. Costs to respondent.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B213755 People (Not for Publication)
v.
Haydar

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B210904 People (Not for Publication)
v.
David M. Thimmes

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

July 13, 2009 (Continued)

DIVISION SEVEN

B207525 People (Not for Publication)
v.
Trejo

The abstract of judgment is ordered corrected to show Trejo was convicted by jury trial rather than by plea. The judgment is affirmed.

Woods, Acting P.J.

We concur: Zelon, J.
 Jackson, J.

B202374 Crumb (Not for Publication)
v.
Kmart Corporation, et al.

The order is affirmed. Kmart to recover costs on appeal.

Woods, Acting P.J.

We concur: Zelon, J.
 Jackson, J.

DIVISION EIGHT

B203882 People (Not for Publication)
v.
David Lee Strong

The judgment is modified to reflect that appellant is to receive 288 days credit for time served. In all other respects, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment that reflects the correct award of credit for time served.

Flier, J.

We concur: Rubin, Acting P.J.
Bauer, J. (Assigned)

DIVISION EIGHT (continued)

B208328 People (Not for Publication)
v.
C.R.,
In re C.R., a Person Coming Under the Juvenile Court Law.

For the reasons set forth above, matter is remanded to the clerk of the juvenile court with directions to enter amended orders in both sustained petitions stating that C.R. is awarded presentence custody credits of 28 days, and that his combined maximum term of confinement as a result of the orders sustaining the two petitions is four years and four months. The clerk is directed to send copies of the corrected orders to the California Youth Authority. The orders as modified are affirmed.

Rubin, Acting P.J.

We concur: Bigelow, J.
Bendix, J. (Assigned)

B210897 Lee Williams et al., (Not for Publication)
v.
Southern California Gas Company
The judgment is affirmed. Respondent is to recover its costs on appeal.

Flier, J.

We concur: Rubin, Acting P.J.
Bigelow, J.

B212857 Los Angeles County, D.C.F.S. (Not for Publication)
v.
K.T.,

The order is affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
Bigelow, J.

July 13, 2009 (Continued)

DIVISION EIGHT (continued)

B211735 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Tracey C.,
In re A.C., a Person Coming Under the Juvenile Court Law.

The orders are affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
Bendix, J. (Assigned)